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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1377 OF 2005
IN
SUIT NO.4202 OF 1993

Hormaz Jal Muncherjee).. Plaintiff

Versus

Citibank N.A.).. Defendant

Mr.K.P.Anilkumar for the Plaintiff.

Mr.P.S. Colabawala with Zarin Parkar i/b.Ramesh Makhija & Co. for the Defendant.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 29TH JUNE 2006

P.C.:

. The present Notice of Motion has been filed for setting aside the order passed by the Prothonotary & Senior Master dismissing the Suit on 6th September 1998. The only reason mentioned in the affidavit in support of the Motion is that the Plaintiff was not aware that the Suit had been dismissed in 1998. There is no reason mentioned in the affidavit in support of the Motion as to why the objections were not removed in the year 1998. The Plaintiff has been adopting proceedings since the year 2003 onwards without having checked whether the Suit was alive. This negligence on the part of the Plaintiff need not be condoned. Furthermore, the

reasons mentioned for setting aside the dismissal after eight years are not satisfactory. The Advocate for the Plaintiff insists that the dismissal of the Suit was in the year 1993. This makes things even worse for the Plaintiff. Hence, Motion dismissed.